

PUBLIC HEARING
MAYOR AND COUNCIL
Tuesday, July 8, 2003, 7 p.m.
Meeting Notes

Mayor to Call to Order

Sign-up sheets available for those who want to speak

Rick Stup -

Zoning Ordinance Text Amendment

(Site Plan Review and Fees)

Previously considered by Council on May 27. On June 23 P&Z Commission considered and recommended passage. Changes mostly clean-up. Eliminates references to fees and procedures for passage.

Subdivision Regulations Text Amendment

(Preliminary Plan Approval Expiration, Final Plat Filing, Guarantees, Certifications, Addition Plat, Fees)

Deals with clean-up, i.e., time limit for preliminary plans to 3 years. Eliminate number of copies to be submitted. Changes language for "Letters of Credit" to in-state banking institutions.

Bell - Did Planning Commission consider all changes?

Stup - On June 23 Commission considered and recommendation approval.

No public comments

Planning and Zoning Administrative Fee Schedule

Considered by Council on May 27 and recommendation to proceed with development of schedule. Purpose is reimbursement/ 75% of costs to City for Planning and consultants.

Smith - Difference in cost for average home owner and business person?

Stup - No. City outlay the same. Requires 2 days by planner and newspaper ad costs, etc. Average out-of-pocket is about \$500.

Keith Sparrow, 6th Ave. - Increase too high. Believes variance fee too much, from \$75 to \$750. Need to be justified, comparing to other Cities. A shed from Lowes is less than fee.

Smith - It is true the City has lost money over the years due to low rates.

Jerry Connelly, Pleasants Development - Should re-evaluate fees often to assure fees. A revocable letter-of-credit from a bank requires dollar for dollar match to bank of amount. A project of our magnitude creates a tremendous financial burden. We will need to pay for work and provide same dollars to bank. Our performance will be judged by work completed before new work begins on another portion. Caused by our own industry and failures. Hopefully our record in other projects indicates

Smith - How do we decide who the “bad apples” are in industry?

Connelly - Examine background of company, i.e. past performance. The letter of credit for a shed is much less than 10 million dollars in improvements. The financial burden on a project like ours is almost impossible. Cannot borrow money for letters-of-credit.

Stup - City can determine the form of surety in the PWAs for the projects. Experience has shown that determining form of surety in PWA does work.

Bell - Legally, can we consider performance of contractor?

Stup - Modifications are allowed to do good performance. Bonds are more suited for contractors instead of guarantees

Stull - Is this selective enforcement?

Stup - Not if it is identified up front and available to everyone.

Connelly - I believe we can offer a program that is acceptable to both parties.

Mayor - Enterprise Budget & Rate Increase
No Public Comment; Closes Public Hearing

Roll Call - Harrington, Smith, Greenfield, Stull, Castle, Bell - All present

MAYOR AND COUNCIL MEETING

Tuesday, July 8, 2003

AGENDA

Roll Call- All Present

Pledge

Mayor's Remarks

Great ceremony for America's Bravest on Sunday. Good turn out.

Movies in park going well. No movie this weekend.

Dave - New web site almost ready. Will allow interactive use including access to City information (i.e. budgets, meeting notes, agenda, audits, etc).

Mayor - Talking to SGTP to consider the use of under-run from South Maple St project for the sidewalk project which will allow A Street sidewalk repair.

Approval of Minutes - 5/27, 6/10, 6/17

Motion to approve Stull

2nd Castle

Vote 6 - 0

Staff Reports/Committee Reports

Kevin Brawner -

Public Works - Work include Meters read, water leaks repaired, clogged sewers, down trees cut up, repair curb cuts, etc.

Bell - When will milling machine be required?

Brawner - New motor has been ordered. We are saw-cutting curbs until fixed.

Water & Wastewater Reports - See attached

Chief Price -

Crime is declining. 2 Felony arrests, 52 citation, 69 parking tickets.

Neighbourhood Watch Program is getting more participation.

News from Homeland Security grants due soon.

Department is at full strength.

Geri Reynolds -

Recreation report - Fishing Derby successful. Bike rodeo went well, giving out t-shirts and new

helmets. Pool parties for June- 13. Extending pool hours on Mondays and Fridays until 8:00 p.m. for July. Fireworks rain-out, re-scheduled for Saturday, July 12, 9:30. River Race on July 26. August 5 will be National Night Out.

Rick Stup - Planning Report. Planning Commission met on June 23. At July meeting Commission will consider new officers. NPDES notification compliance received. Working on boundary issues and will have workshop in future to discuss issue. Biser boundary issue continuing, surveyor is revising documents as Annexation Agreement dictated. H St situation continuing, meeting with County and DVL representatives scheduled.

Holding PWA and letter-of-credit on improvements. Moving aggressively to solve problem and if not completed soon the staff recommend calling of guarantee.

Smith - Will letter-of-credit cover costs of improvements?

Stup - Letter is for \$200,000 and can be called in entirety.

Bell - Allegheny has stated they will replace all lights and re-lamp with new sensors.

Castle - EDC is considering suggestions made by Strategic Planning Study for improvements. Met with Maryland Main Street officials to determine tips for applications. Two CDGB grants applied for. East Potomac St water, sewer, and re-paving and 4th Ave wall

Stull - Finance Committee Meeting tomorrow night. Square Corner Park work continuing.

Greenfield - Thank Geri and Walt for help with recent events.

Smith - None

Harrington - None

Citizens' Forum

Harry Lashley - Brunswick St. Movies in the Park - Successful showings last two weeks averaging 85 residents. No movie this weekend.

Todd Morsack, 703 East H St. - Water and sewer taps requested by DVL, Inc. Many citizens on H St have significant problems with developer, i.e., punch lists, etc. Would like Council to consider complaints from residents.

Mayor - No conditional approval for taps will be considered tonight.

Old Business:

Rick Stup - Street and Alley Inspection Procedure - Previously before Council May 27. Staff and Planning Commission recommends approval

Motion Stull to approve

2nd - Bell

Smith - Inquires who will conduct inspections.

Stup - By inspector paid for by contractor.

Vote to approve 6 - 0

Stup - Platted Street Conditional Acceptance- G Street to 9th Avenue.

Gum Springs/DVL: Request for Water and Sewer Taps for the following Lots:

Lots 2, 3 & 6, 7 - H Street (4 Residential Water and Sewer Taps)

Lots 8-14- G Street (7 Residential Water and Sewer Taps)

Request filed per new SOP. Staff did request conditional approval, however no file for project could be located.(No case file or evidence that issues were adequately addressed through residential site plan review process). Sufficient engineering data apparently was not required of developer. No indication that drainage and other improvements were properly addressed. Due to lack of data/questions, staff requests it be sent back to Planning Commission for proper consideration.

Smith - Yellow lines were in dispute due to safety issue in area. Biser may enhance problem.

Stup - This does not trip APFO. However, as part of Residential Site Plan Review, not only the intersection with Gum Springs but also connection to 9th Avenue needs to be looked at. Lack of case file or background in it having been conditionally approved, it has gone along like this. Purpose of SOP for acceptance would put it back into Planning Commission for their recommendation.

Bell - Problems were identified with bridge on Gum Spring Rd.

Stup - Since APFO was not tripped bridge was not consider at this stage. (Specifically looking at roads that directly abutt the development). Staff recommends continuance for consideration by Planning Commission to specifically look at those engineering details that seem to be absent from what I have been able to re-create from a case file.

Mayor- Will be addressed by Planning Commission when?

Stup- With Posting requirement of 20 days, soonest it could come up would be August meeting.

Laura Melia, Attorney representing DVL, Inc. Originally came here to answer questions about my Title Opinion Letter, which would discuss your authority to accept the dedication of the road. Mr. Stup's comments indicates new problems I had no knowledge of. Whether Mr. Van Lusen or anyone else at DVL Inc. knew of engineering studies and requests, I cannot say. Conditional approval was given and drawings do indicate G street and the topography of it in area. You do have authority to open that street up should you choose to do so. You do have authority to allow someone to build that street on your behalf as well. DVL certainly would have right to have some sort of public lane. If approval is not recommended we are willing to "go back to drawing board". My client may not be opposed to providing additional info, just wish we knew previously before this evening. Project has been delayed for months. Had we known, we would have given it

previously. Developer is contractual purchaser. Has a lot of money riding on getting that project off and running. Given that conditional approval was given at one point, given that engineer and surveyor addressed concerns expressed in March, it should be allowed to continue on. Realistically, DVL cannot start building until the end of September. Unduly setting back developer.

Stup - Issues in February only addressed Gum Spring Rd. Without case file I was unaware of status. Our procedure requires Planning Commission approval, however all issues had not been addressed in February (my first meeting, when improvement plans came up). Plans dealt specifically with Gum Springs Road. Not having file but only minutes, I could not recreate what was done in past or what had come up in past. Minutes from Feb. dealt specifically with Gum Spring Road. Landing coming into 9th Ave and connection to G street was not part of discussion meeting at February meeting or in minutes of December meeting. Acceptance requires planning commission recommendation. This request would have gone to PC meeting at July meeting but because it had received conditional approval, thinking issues had been addressed, it did not. City is well within intent of the procedure to send to Planning Commission for their review and comment and to look at those specific details/engineering data that is lacking and was not addressed (From December minutes and what I heard at February meeting).

Laura Melia - Understand Mr. Stup not person in charge in December/file missing. Nor is my client responsible if the request was not given. It is not that he refused to provide the info. To my knowledge it has never been requested. If some items needed to be addresses we would have supplied information if asked in December. At any time since, info could have been provided. Understood that state highway did approve this. I defer to the plat.

Mayor - Why would State Highway be involved?

Stup - State Highway supplied comments but has no jurisdiction.

Smith - Was study completed on G ST @ 9th Ave?

Laura Melia - Not was never requested, but could have supplied. Significant delay, developer was unaware of other studies. We just learned about new issues 10 minutes ago. I am not engineer or surveyor. But there has been a significant delay and added costs due to delay. DVL has proffered to place sidewalk between H St and Gum Spring Rd at their cost.

Mayor - Sequence seems to be street opening considered prior to consideration by Planning Commission. Planning doesn't know if it is going to be open or not.

Stup - That is one of the points that brought us to the acceptance procedure and part of a logical sequence in the development business. Because of the delays, the issue was brought here, not realizing that the item with 9th had not been addressed. We are here tonight due to issue of 9th Ave & G Street not being addressed previously. It would be coming up at the 60 day review cycle, the August meeting. I am willing to cut that schedule so it would still be on the same meeting so that they have not lost any time.

Mayor - Purview of opening street rests with Mayor and Council. Had no obligation to open.

John Clapp, Attorney for City. Seems to be cart before horse. This plat created G St. back in the 1890's. This paper street has been platted for 100 years and offered to City by the then owner of this development. City thought there was not need to open the street. Now this developer has asked City to open. While City certainly has authority to open street that was dedicated, they do not have the obligation to do so. Mayor and Council should continue opening prior to other consideration, i.e., Planning Commission. Suggests opening considered first. If yes, then decide who is going to do the work. DVL, obviously has made the offer to do so. Maybe they're the appropriate person to do so, maybe not. Sending this back to the Planning Commission may be a question of "spinning your wheels." This would be if they do the studies, and come up with plan that works, and then the Mayor and Council decide not to open the street after all.

Laura Melia - Recognizes Mr. Clapp's statement as accurate and truthful. This was started in December and now rules are changed in July. Under Maryland law states DVL as owner of land adjacent to G street, does have a right to the net effect of that G street. There is case law out there wherein there is an ancient plat. Tons of alleys and street have been platted and never opened but citizens still have right to use them. Whether opened or not, DVL would still be able to have access to the next available public road, which I believe is 9th street. They may not have access to a public road, but they could have access to a private lane. Improvements may have to be made to that lane, etc. Overall, it makes a lot of sense what John Clapp is saying.

Mayor - Are you suggesting a private lane could be put in, even though the street is not open?

Laura Melia - Not suggesting that this development could put in a private lane to service all of the lots. I do not know. But I can tell you that an individual lot owner, who has land, has right to...(tape ended.)

John Clapp - A legal theory I am not familiar with. Not prepared to say that it's wrong, but I do not know.

Stup - Zoning Ordinance will not allow building on road without proper road frontage, 10 foot minimum of public road front. Even with lots of record.

Mayor - Going back to Planning Commission will not serve purpose unless street is opened.

Clapp - That is my view. Unsure of what Brunswick has done with similar situations like this. Every paper street is a little different, but a decision to open street should first be made. If decision is no then other engineering studies would be waste of time.

Mayor - Intersection data, site distance, adequate landing distances, etc may need to be done and looked at to allow proper consideration of whether to open that street.

Clapp - Correct. Some info may be important. Using them as an advisory body is appropriate. But it sounded to me that you were sending it back for some kind of plat approval.

Smith - Parking issues need to be addressed in Planning Commission with citizen input.. (Line of sight issues, etc.) Could be presented to Planning and Zoning and we could give an educated

opinion then. Need to go through the whole thing as Planning and Zoning would do. Logical?

Clapp - Yes, the more information you have, the better able to make decision. Whether it is engineering data from planning commission, or general citizen input, it is beneficial.

Mayor - Tonight, sufficient data is not available to make decision. The question is do we send it back to Planning Commission to get info on intersection, line of sight, etc. or whether we leave it with the Council and do whatever we have to do to get that info and get back to Council on the opening of the street.

Stull - Many issues were addressed at Planning Commission. Many need to be rectified before it can be presented to M & C to vote on. There was an issue about widening Gum Spring Road, the boundary line between G street and 9th Avenue. Planning commission approved with condition that certain issues were going to be taken care of or addressed. They have not been addressed yet. These need to be addressed before Council considers opening.

Laura Melia - Aware there were issues. My understanding that issues had been resolved and that this they were not issues that conditional approval was given on.

Stup - DVL need address Site Plans but not Improvement Plans. Improvement plans still outstanding with some issues. Residential Site Plan is a hybrid/intends Planning Commission to consider sight distance, landing type things etc. They should have all the data and be able to put it together in a very short time, except perhaps measures for site distance and vehicles. There is a set county formula that we use. Matter of a couple of hours to measure that from a survey standpoint. Not talking about final drawings. Talking about preliminary designs. Planning Commission is the one that has the expertise to look at those.

Mayor - Views Planning Commission as dealing with only issues that are directly relevant to items regarding opening the street. The practitioners piece of the planning is irrelevant. This is the concept of planning.

Stull - Motion to send back to Planning Commission. Asks Stup to clarify Remand for reconsideration concerning Engineering issues regarding 9th and G area as recommended by Staff Report

Stup- Issues include Impaction of existing right of way, sight distance, adequate landing area and issues dealing with tying in existing 9th Avenue and existing land that is there.

Stull- Motion- Staff recommends continuance of action on the request until the Planning Commission has forwarded recommendation that request be reprimanded to the Planning Commission for consideration of previous approval specifically to address the issue raised with the proposed G street intersection with 9th Avenue.

2nd - Harrington
Vote 6 - 0

Stup - Staff withdraws request for tap agreement for project.

Mayor - ok. 5 minute break

Mayor - Enterprise Budget and rate increase

2% COLA & Salary increase 2%. With increasing operational costs and debt service rate, increases required. East Potomac St (1000 feet) is budgeted in case grant is not received. Sewer Rates - \$30 to 4.50 = \$31.50 per quarter. Excess increased by \$.50 to \$3.75 per 1000 gallons. generating \$41,731 in additional revenue. Special assessment will be considered at Galyn Manor for pumping station costs.

Dave - Rate increase that has been recommended for the water enterprise fund is for the base rate to go from \$27.60 per quarter to \$30.00 per quarter to generate an additional \$20,237 in additional revenue for the base rate users. Additionally, a rate increase from \$3.00 to the excess over 6,000 gallons to \$3.30 will generate an additional \$22,291.00 for a total water revenue of \$42,528.00 per year. The overall effect on most users, if we look at the median average of 14,000 gallons would be about \$5.25 increase per quarter for most users. Were considering this for next year because of the new added debt service that we envision next year. New operator=\$11,000 increase. New reservoir cover debt service expected to be approximately \$500,000. At MDE rate of 1.5% would be approximately \$26,000. So the new debt service is going to be about \$70,000. (\$33,00 deficit last year in water deficit fund). For this increase, will recoup \$42,528.00 of that anticipated deficit next year.

Mayor For those using the minimum amount we are talking about a difference of base rate on water side of .80 per month. On sewer - .50 per month. Not a tremendous increase.

Dave-Two new things we have tried to do this year- with the money we are setting aside in Capital Project Fund we have allocated \$60,000 in water mains in the water side. And we have set aside \$14,000 for new sewer mains. These are going to be put in a fund that can be rolled over from year to year as opposed to previously putting them into a line item, which as the fiscal year ends, the money falls back into the reserves. Trying to work toward some infrastructure improvements and try to be a little proactive. If we don't use, that money will continue to grow over the fiscal years and we can start to do some of these projects. MDE requirement for sewer enterprise fund is to generate \$82,000 in new revenue over the next 3 years. We will have to pass resolution that says that we will take steps to generate at least that much. We are generating about half of that requirement. This process needs to occur over three years as we increase these rates. In 2010 the revenue of \$132,000 that we receive from the Biser project will evaporate and need to try to work towards making up that deficit.

Smith - Mr. Cady stated schools are in CIP.

Connelly - When analysis is completed they examine the capacity of schools. High School is an issue. Spoke to Doug Browning, and stated picture could change when Tusaroa opens. Will ask Ray Barnes to consider redistricting before we test. Saving from BNR can go to reservoir wall.

Smith - If cover is put on can we can't increase wall later?

Mayor - Engineers looking at cover options.

Joe Moss, ARRO - Talking to contractors of dome, installed 3 feet above existing wall, allowing fiber-glass panels until wall can be extended.

Connelly - New line to reservoir is in being considered now. Easements and alignment are being considered. Phase I should be submitted shortly. Phase II is when APFO testing will occur.

Smith - The revenues that need to be generated may be impacted by Brunswick Crossing.

Connelly - Timing issues are out of our control. APFO requirements are floating issues.

Smith - Not in favor of increasing rates. However, will make motion to accept budget and rate increases. Confused that every year General Budget has surplus, but every year Enterprise budget is in red.

2nd - Stull

Vote to approve budget 6-0.

Smith-Motion to approve new rates,

2nd Stull

Vote 5-1, Harrington against.

Mayor - Rate increases are necessary due to insufficient revenues.

New Business

Donna Thompson - Main Street Software. Many customers in Maryland, Delaware, New Jersey using software successfully. Interfacing occurring between Utility and accounting software. Interfaces with current meter-readers. Many reports available. Search available for any information in system. Support available by 800 phone number, guarantee 1 hour response time. WebX used for solving problems.

Bell - Who writes software?

Thompson - Upgrades are included in package. Training allowance is supplied.

Mayor - Inquires about training.

Thompson - A lot of training is done over phone. Conversion included at no cost.

Dave - Identifies problems with Fund Balance. Lack of support, poor reporting, etc.

Thompson - Full Payment is not received until successful operation is realized.

Harrington - Is there a charge for support?

Dave - Council has heard before from Fund Balance that it was a great system and support would be adequate. We have traveled to other jurisdictions and talked to users to try to make a good recommendation. We believe this is the best software available.

Castle - What is the effect on the budget?

Dave - \$10,800 in FY 2004, \$10,000 in 2005, \$10,000 in 2006. The lease price is \$30,800.

Thompson - Other modules provide payroll, Internet bill paying, etc

Dee - Outside vendor handles tax reporting, time sheets, salary, etc.

Stull- Motion to purchase Main Street using 3 year lease as detailed.
2nd - Harrington

Castle - Does this violate competitive bidding process?

Dave - Charter only calls for competitive bids.

Mayor - Can we justify the competitive process?

Dee - Yes

Vote to purchase through lease, 5 - 1, Against Bell.

Stup - Utility Permit, Procedure and Specifications - Discussion

Staff recommends to allow to proceed.

Motion to proceed Harrington

2nd - Bell

Vote 6 - 0

Mayor - Traffic Control Request- 11 West B Street
Yellow line at base of B St is now about 70 feet long.

Bell - State recommended the clearance we have now, judging by emergency clearance.

Mayor - We looked at area today and adjust to accommodate steps with no parking area.

Chief - Recommends Fire Department to consider.

Castle - Motion to ask Fire Department to look at area.

2nd - Bell

Vote to ask Fire Department to examine. 6 - 0

Charitable Contribution Request - Volunteer Frederick - Request for Reduced Pool Fee
Motion to approve Smith

2nd - Castle
Vote 6 - 0
Adjournment

Approved By: _____
Mayor Date

Witness: _____
City Administrator Date